IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WP(C).No. 14258 of 2007(V)

PETITIONER:

K. SUBRAMANIAN, S/O. KITTUNNI,
PANAMKUTTY HOUSE, PERUVEMBA, PALAKKAD DISTRICT.

BY ADV. SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENTS:

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1. PRADEEP, S/O. VASANTHA,
AMMINIPARAMBU VEEDU, KOTTEKKAD,PALAKKAD DISTRICT.

2. PRASEETHA, D/O. VASANTHA,
AMMINIPARAMBU VEEDU, KOTTEKKAD,PALAKKAD DISTRICT.

3. SUB INSPECTOR OF POLICE,
PUDUNAGARAM, PALAKKAD DISTRICT.

R3 BY GOVT. PLEADER SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 14258 of 2007 V

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Dated this the 25th day of May, 2007

JUDGMENT

The petitioner has suffered an order under Section 125 Cr.P.C. to pay maintenance to his children. Three petitions are pending before the Family Court for recovery of amounts due to the claimants/children. They are for the periods (1) 26.5.05 to 25.8.05, (2) 26.8.05 to 25.10.05 and (3) 26.10.05 to 25.10.2006.

2. The petitioner has also filed a petition dt. 25.10.05 to cancel the order of maintenance, allegedly on the twin grounds that the petitioner has retired on superannuation and that his children have attained majority. That petition has been filed under Section 127 Cr.P.C. and the same is pending now as M.C. 170 of 2006.

3. The short grievance raised by the petitioner in this Writ Petition is that the learned Judge of the Family Court is not disposing of M.C. 170 of 2006 and is proceeding to dispose of the execution petitions before considering the application for cancellation.

4. Report of the learned Judge of the Family Court was obtained. It is evident that the first two applications claiming

execution of maintenance for the period 26.5.05 to 25.8.05 and 26.8.05 to 25.10.2005 can be disposed of now as the same has no relevance or bearing to the application for cancellation/modification filed under Section 127 Cr.P.C. on 25.10.2005. I am satisfied that so far as the third petition is concerned claiming maintenance for the period 26.10.05 to 25.10.2006, the interests of justice demand that the same must be taken up for consideration only after disposal of M.C. 170 of 2006. Direction to that effect can be issued to the learned Judge of the Family Court.

5. This Writ Petition is allowed to the above extent. The applications for execution of maintenance till 25.10.2005 can be disposed of by the learned Judge straight away. But the application for execution of maintenance for the period after 25.10.2005 shall be disposed of only after M.C. 170 of 2006 filed on 25.10.2005 is disposed of by the learned Judge.

(R. BASANT)
Judge

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